

**STATE OF MICHIGAN
IN THE 44TH JUDICIAL CIRCUIT COURT
COUNTY OF LIVINGSTON**

ADAM P. NEUMAN,
an individual,

Plaintiff,

-v-

Case No. - - CZ
Hon.

BRIGHTON EDUCATION ASSOCIATION,
a nonprofit corporation,

and

BRIGHTON AREA SCHOOLS BOARD OF EDUCATION,
a public corporation,

Defendants.

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There is no other pending or resolved civil action
arising out of the same transaction or occurrence
alleged in the Complaint.

COMPLAINT

INTRODUCTION

In 2012 Michigan passed the Freedom To Work Act, commonly known as right-to-work. The Act prohibited both public- and private-sector unions from requiring payment from employees in the bargaining unit which the union represents. Incorporated in MCL 423.210, the

Act states that public-sector employees, such as Plaintiff, cannot be required to: “(c) Pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value to a labor organization or bargaining representative.”

Prior to right-to-work, in 2012 Michigan passed Public Act 53 which, incorporated in MCL 423.210(1)(b), prohibits a public school employer from using its resources to collect dues or fees for or on behalf of a union: “A public school employer’s use of public school resources to assist a labor organization in collecting dues or service fees from wages of public school employees is a prohibited contribution to the administration of a labor organization.”

Here, the defendants Brighton Education Association (“BEA”) and Brighton Area Schools Board of Education (the “School Board”) entered into a collective bargaining agreement (the “CBA”) on September 1, 2014 that violates both right-to-work and the prohibition on using school resources to collect dues and fees for the union. The defendants’ CBA contains a provision which requires all employees, including members of the bargaining unit who are not union members, to pay a portion of the salary or wages of union officials who conduct union business under the guise of “release time.” The CBA requires that payment for this release time be taken from employees through “Payroll deductions...considered required as a condition of this collective bargaining agreement.”

The plaintiff, ADAM NEUMAN, is a high school teacher of United States Government and Advanced Placement United States Government. He is no longer a member of the union, and yet he is still bound by the CBA.

PARTIES AND JURISDICTION

1. Plaintiff, ADAM P. NEUMAN, is an individual who is employed by the Brighton Area Schools, Livingston County, Michigan.

2. Plaintiff, ADAM P. NEUMAN, is an employee in a bargaining unit which is represented by the defendant union, Brighton Education Association.
3. Plaintiff, ADAM P. NEUMAN, resides in Gregory, Livingston County, Michigan.
4. Defendant, BRIGHTON EDUCATION ASSOCIATION (“BEA”) is an incorporated labor organization located in or having an agent in Howell, Livingston County, Michigan.
5. Defendant, BRIGHTON AREA SCHOOLS BOARD OF EDUCATION (the “School Board”) upon information and belief, is a municipal corporation located in Brighton, Livingston County, Michigan.
6. On or about June 24, 2014, Defendants BEA and the SCHOOL BOARD entered into a collective bargaining agreement (“CBA”) effective September 1, 2014 to August 31, 2019. A copy of the CBA is attached as Exhibit A.
8. Upon information and belief, the CBA was entered into and is effective in Brighton, Livingston County, Michigan.
9. This matter involves a violation or threatened violation of MCL 423.210(3), which grants this court jurisdiction under MCL 423.210(10).
10. This Complaint requests injunctive and declaratory relief as authorized by MCR 2.605; and equitable relief over which this Court has jurisdiction.

GENERAL ALLEGATIONS

11. Plaintiff hereby incorporates the preceding paragraphs as though restated herein.
12. This CBA includes a provision awarding the BEA President, a teacher employed by the School Board, “release time” which releases this teacher from his/her teaching responsibilities to engage in union-related activities:

The Board, recognizing the value of an effective Association-Board relationship, agrees to assign to the Association President no more than four (4) academic classes (or the

equivalent in case of an elementary teacher) and allows that person one (1) hour of released time per day in which to fulfill their responsibility. Released time for the Association President shall be either at the beginning or the end of the school day. The Association President's preparation time shall be scheduled at either end of the work day. The Association President may use his/her preparation time, when necessary, to fulfill his/her Association responsibilities, provided that: (1) he/she notifies the building administrator of his/her intent; (2) the Association President meets his/her daily preparation responsibilities to the satisfaction of the building administrator.

In addition to the above referenced release time, the Association reserves the right to notify the Board of its intention to utilize an additional one or two hours of release time for the President on an ongoing basis throughout the ensuing fiscal year subject to the following conditions:

See Exhibit A at 6-7, § K.

13. The CBA requires that the cost of additional release time be paid by all employees, without regard to their union membership status:

2. The cost of the additional release time will be reimbursed by the Association through a payroll deduction plan. All employees in the bargaining unit will pay an equal share of the cost.

See Exhibit A at 7, § K(2).

14. The CBA requires that employees pay for this charge, fee, or expense for the labor organization "as a condition of this collective bargaining agreement":

3. Payroll deductions under Section L are considered required as a condition of this collective bargaining agreement. The Board will accordingly payroll deduct the appropriate amounts pursuant to the authority set forth in M.C.L.A. 408.477.

See Exhibit A at 7, § K(3).

VIOLATION OF RIGHT TO WORK

15. Plaintiff hereby incorporates the preceding paragraphs as though restated herein.

16. The CBA, on its face, requires that employees pay the costs of additional release time.

17. The required payment by employees "as a condition of this collective bargaining agreement" violates MCL 423.210(3)'s prohibition on mandatory: "(c) Pay[ing of] any dues,

fees, assessments, or other charges or expenses of any kind or amount, or provid[ing] anything of value to a labor organization or bargaining representative.”

18. Paying the costs of additional release time is, or would be, a payment of dues, fees, assessments, or other charges and expenses.

19. The term “release time,” as used in this CBA, refers to a school employee who is released, in whole or in part, from his or her school duties to conduct union-related business.

20. Release time is something of value to the defendant BEA.

21. Even if payment has not yet been demanded, the mandatory payment of additional release time is a threatened violation of MCL 423.210(3), and is therefore a valid cause of action under MCL 423.210(10): “a person who suffers an injury as a result of a violation or threatened violation of subsection (3) may bring a civil action for damages, injunctive relief, or both.”

VIOLATION OF PROHIBITION ON PAYROLL DEDUCTIONS

22. Plaintiff hereby incorporates the preceding paragraphs as though restated herein.

23. The payment of “additional release time will be reimbursed by the [BEA] through a payroll deduction plan. All employees in the bargaining unit...” union members and non-members alike, “...will pay an equal share of the cost.”

24. MCL 423.210(1) prohibits the School Board from using payroll deduction to collect fees or any payment from employees for the benefit of the BEA or any labor organization: “A public school employer’s use of public school resources to assist a labor organization in collecting dues or service fees from wages of public school employees is a prohibited contribution to the administration of a labor organization.”

25. The subject CBA payroll deduction requirement violates MCL 423.210(1).

26. The subject CBA payroll deduction requirement is a “prohibited contribution to the administration of a labor organization.”

RELIEF REQUESTED

For the above-listed reasons, Plaintiff requests that this court issue declaratory and/or injunctive relief and rule that the release time provision of the CBA violates the right-to-work law to the extent that it requires nonmembers to contribute; and that the payroll deduction violates the Public Employment Relations Act, MCL 423.210.

Additionally, Plaintiff requests that this Court award him his attorney fees and costs pursuant to MCL 423.210(10); fine Defendants \$500 each pursuant to MCL 423.210(8); and award any other relief that this Court finds to be just and equitable.

Dated: October 15, 2014

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